REMARKS

In the Action dated October 18, 2001, the Examiner has rejected Claims 1-3 and 5-6 under 35 U.S.C. § 103(a) as being unpatentable over *Christer Bernerus*, Software Management in DFS, in view of *Thomas*, U.S. Patent No. 4,685,055, and *Harding*, U.S. Patent No. 5,794,052. That rejection is respectfully traversed.

As noted in Applicant's previous Response, the present invention is directed to a technique for setting up personal computers within a large enterprise where different individuals utilize different software packages without incurring unnecessary license fees or unnecessarily utilizing the network bandwidth to download software after the computer has been installed.

The present invention solves this problem by loading a personal computer system with software including "selected and non-selected software in unusable form" and thereafter converting the selected software into usable form and storing it wherein non-selected programs are not converted into usable form. In this manner a list of selected software for a particular computer can be clearly established so that royalties will only be paid out of software which is in use.

The *Christer Bernerus* reference, primarily relied upon by the Examiner, is a description of a software management system utilized within a Distributed File System (DFS) system. This is well defined in the art as a "file management system in which files may be located on multiple computers connected over a local or wide area network."

As illustrated in **Figure 1** of *Christer Bernerus*, and as relied upon by the Examiner, multiple users, preferably utilizing terminals or personal computers, access software packages which are present within the Distributed File System by means of software directors who can control whether or not a particular software package may be utilized by a particular user.

This system is identical to the approach described in the present Specification in that the software must either be downloaded from the Distributed File System to the user or executed over the network, in either events substantially utilizing available network bandwidth.

Each and every claim within the present Application expressly recites the storage of selected and non-selected software within a personal computer in a non-usable form and the subsequent rendering of the selected software into a usable form. It is therefore beyond cavil that *Bernerus* cannot be said to show or suggest such an invention. As further evidence of the inapplicability of the *Bernerus* reference, the Examiner's attention is once invited to page 2 of that reference, under "General requirements" wherein *Bernerus* states "Software packages must be kept together so that all data necessary for use and administration of the package is contained under one defined point in the file system." Similarly, at page 4, *Bernerus* notes that the software packages are "in the file system" and are not contained within the personal computer as expressly required by the claims in the present Application.

The Examiner cites *Thomas*, for its teaching of the paying of royalties on only selected software. However, Applicant once again urges the Examiner to consider that *Thomas* discloses a situation in which software is downloaded, presumably over a network, from a software source 11 to a dealer 12 for subsequent distribution to an end-user 13. Thus, both *Bernerus* and *Thomas* disclose a situation in which the software is present at a remote location and executed thereat or downloaded via a network to the user's personal computer. Thus, neither of these references can be said to show or suggest in any way the loading of both selected and non-selected software within a personal computer in a non-usable form and the subsequent rendering of the selected software into usable form as expressly set forth within the claims.

In recognition of this deficiency, the Examiner cites *Harding*, U.S. Patent No. 5,794,052 for an alleged teaching of "non-selected software in unusable form." Citing column 3, lines 32-37 and column 8, lines 3-9. A careful examination of *Harding* reveals however that all software loaded within the computers, as described within that reference, is in a fully operational mode

and the cited portions of *Harding* are directed to the deletion of non-selected versions after the system has been set up. Thus, no where within *Harding* is there the slightest suggestion of loading both selected and non-selected software into a computer in an unusable form and thereafter rendering the selected software into a usable form. Consequently, Applicant urges the Examiner to consider that no combination of *Christer Bernerus*, *Thomas* and *Harding* can be said to show or suggest a system such as that set forth expressly within the claims of the present Application wherein both selected and non-selected software are loaded into a computer in an unusable form and wherein the selected software is later converted into usable form and the non-selected programs are not converted into usable form. As each of these references discloses either the execution or downloading of usable form software from a remote location or the loading of the computer with multiple versions of operational software and the deletion of non-selected software, it is clear that these references cannot form a basis for a *prima facie* showing of obviousness of the claims in the present Application.

The Examiner has rejected Claim 4 under 35 U.S.C. §103(a) as being unpatentable over the previous combination of references and further in view of *Halter, et al.*, U.S. Patent No. 5,319,705. That rejection is also respectfully traversed.

For the reasons set forth above, *Christer Bernerus, Thomas* and *Harding* fail to show or suggest a system which loads both selected and unselected software into a computer in an unusable form and the subsequent conversion of selected software into a usable form. The Examiner has cited *Halter, et al.*, for its disclosure of software which can be converted from encrypted to an unencrypted form; however, there is no showing or suggestion within this reference, whether considered alone or in combination with the other references, which would show or suggest the invention set forth within the claims of the present Application in which both selected software and non-selected software are loaded into the computer in an unusable form and which the selected software is subsequently converted into usable form.

Claims 7-11 are rejected by the Examiner under 35 U.S.C. §103(a) as being unpatentable over *Christer Bernerus* in view of *Harding, Thomas* and *www.patents.IBM.com.* That rejection is also respectfully traversed. www.patents.ibm.com teaches the downloading of software through a network from one portion of the network to a node within the network in a manner which utilizes much of the bandwidth and in a manner which is expressly distinguished from the present invention where selected and non-selected software are both loaded into a personal computer in unusable form and wherein the selected software is thereafter converted to usable form. The Examiner has cited this reference for its teaching of selecting software programs which are utilized in a particular personal computer; however, no combination of this reference or with the remaining references shows or suggests the invention set forth within the claims of the present Application.

The Examiner has rejected Claims 12 and 14-15 under 35 U.S.C. §103(a) as being unpatentable over *Christer Bernerus*, in view of www.patents.ibm.com. That rejection is also respectfully traversed.

Claim 12 is directed to a personal computer system which is loaded with usable software and "several programs loaded on a storage device in such a way as to make the programs unusable . . ." Thereafter, selected programs are made active and usable and other programs are rendered permanently unusable. As noted above, *Christer Bernerus* is directed to a system in which all software is located at a particular point within the network and executed from that point or downloaded from that point to the computer. There is no showing or suggestion within *Christer Bernerus* of software which is loaded in an unusable form and thereafter rendered usable as set forth within this claim. Similarly, the mere act of selection of software is illustrated by www.patents.ibm.com fails to show or suggest in any way the loading of unusable software into a computer so that that software may be subsequently rendered usable in a manner set forth within this claim. Consequently, Applicant urges that this combination of references fails to show or suggest in any way the invention set forth within Claims 12 and 14-15.

The Examiner has also rejected Claim 13 under 35 U.S.C. §103(a) as being unpatentable over *Christer Bernerus*, in view of www.patents.ibm.com, and further in view of *Harding*. As noted above, Claim 13 depends from Claim 12 and incorporates all features of Claim 12. As Claim 12 expressly recites the loading of specific software packages into a computer in an unusable form and thereafter subsequently rendering selected programs usable while maintaining non-selected programs in an unusable condition, Applicant urges that this combination of references cannot be said to be suggestive of that claimed invention for the reasons set forth above.

Claim 16 and Claims 18-21 are rejected by the Examiner under 35 U.S.C. §103(a) as being unpatentable over *Christer Bernerus*, in view of *Thomas* and www.patents.ibm.com. That rejection is also respectfully traversed.

As generally set forth in each of the claims of the present Application, Claim 16 is directed to a method for loading each computer with a super set of programs wherein each of those programs is an unusable form and thereafter selecting a subset of the programs which are appropriate for a particular computer and converting those selected programs into usable form. In the rejection, the Examiner continues to assert that *Christer Bernerus* discloses a personal computer system which is initially loaded with software including selected software in an unusable form which is later converted and loaded into usable form. However, as noted above, Applicant urges the Examiner to consider that in fact *Christer Bernerus* discloses software which is executable from or downloaded from a central point within a distributed file system and fails to show or suggest in any way the loading of both selected and non-selected software into personal computers in an unusable form in subsequent conversion of selected software into a usable form. The combination of *Thomas* and www.patents.ibm.com fails to cure this deficiency and consequently, Applicant urges that this rejection is not well founded and it should be withdrawn.

Finally, the Examiner rejects Claim 17 under 35 U.S.C. §103(a) as being unpatentable over *Christer Bernerus*, in view of www.patents.ibm.com and further in view of *Harding*. It is noted that Claim 17 depends from Claim 16 and thus incorporates all features of that claim. For the reasons noted above, Applicant urges that no combination of these references shows or suggests in any way the loading of both selected and non-selected programs in an unusable form into a computer and the subsequent conversion of selected programs into usable form as set forth within these claims and withdrawal of this rejection is respectfully requested.

For the reasons set forth herein, Applicant urges the Examiner to consider that no combination of the references cited shows or suggests in any way the loading of selected and non-selected software in an unusable form into a computer and the subsequent rendering of the selected software applications into a usable form as set forth, in one variation or another, within each of the claims of the present Application. The citation by the Examiner of the *Harding* reference in an attempt to cure the recognized deficiency of the previous rejections is not, in the opinion of the Applicant, persuasive as *Harding* clearly does not disclose loading of both selected and non-selected software in an unusable form and subsequent conversion of selected software into a usable form. *Harding* merely discloses multiple language programs which are loaded in fully operational state and wherein non-selected portions of that program are deleted after installation has occurred. Consequently, Applicant urges that Claims 1-21 define patentable subject matter and withdrawal of all rejections and passage of this Application to issue is therefore respectfully requested.

A request for a one month extension of time and a check for the appropriate fee are enclosed herewith. No additional extension of time is believed to be required; however, in the event an additional extension of time is required, please consider that extension requested and please charge the fee for that extension, as well as any other fee necessary to further the prosecution of this Application to IBM Deposit Account **No. 50-0563.**

Respectfully submitted,

Andrew J. Dillon
Reg. No. 29,634
BRACEWELL & PATTERSON, L.L.P.
Suite 350, Lakewood on the Park
7600B North Capital of Texas Highway
Austin, Texas 78731-1168
(512) 542-2100

ATTORNEY FOR APPLICANT